

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 Jack Leal,

4 Petitioner

5 v.

6 William Hutchings, et. al.,

7 Respondents

Case No.: 2:21-cv-00595-JAD-VCF

**Order Dismissing Unexhausted Claim and  
Setting Briefing Schedule**

[ECF No. 30]

8 Nevada state inmate Jack Leal brings his *pro se* petition for a writ of habeas corpus under  
9 28 U.S.C. § 2254 to challenge his 2017 state court conviction, pursuant to a guilty plea, of  
10 multiple transactions involving fraud or deceit in the course of an enterprise and occupation.<sup>1</sup>

11 On May 4, 2022, I granted in part respondents' motion to dismiss, dismissing Ground 2 in part  
12 under *Tollett v. Henderson*, 411 U.S. 258 (1973), finding that Ground 4 was unexhausted, and  
13 instructing Leal to choose one of three options for proceeding in this case.<sup>2</sup> Leal filed a  
14 declaration indicating his desire to abandon Ground 4 and proceed on the exhausted grounds.<sup>3</sup>

15 Accordingly, IT IS THEREFORE ORDERED that

16 1. Petitioner Jack Leal's request to voluntarily dismiss Ground 4 is **GRANTED**.  
17 Ground 4 is **DISMISSED without prejudice** as unexhausted.

18 2. Respondents have 60 days from the date of this order to answer Leal's remaining  
19 claims for relief.

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22 <sup>1</sup> ECF Nos. 8; 12-12.


23 <sup>2</sup> ECF No. 29.

<sup>3</sup> ECF No. 30.

1           3.       In the answer, respondents must specifically cite to and address the applicable  
2 state court written decision and state court record materials, if any, regarding each claim within  
3 the response as to that claim.

4           4.       Petitioner will have 60 days from the date of service of the answer to file a reply.

5           5.       Any additional instructions stated in the August 25, 2021, scheduling order  
6 remain in effect.<sup>4</sup>

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9 U.S. District Judge Jennifer A. Dorsey  
10 May 23, 2022  
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<sup>4</sup> ECF No. 7.